

LOS ANGELES COUNTY DISTRICT ATTORNEY CHARGE EVALUATION WORKSHEET

Page 1 of 5

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|---------------------------------|--|--|---|
| X FELONY MISDEMEANOR | AGENCY NAME LASD - INTERNAL CRIMINAL AGENCY FILE NO. (DR OR URN) 912-00036-2003-441 | DA CASE NO. 33645833 DA OFFICE CODE J.S.I.D. #12-0222R | DATE 06/06/2013 VICTIM ASSISTANCE REFERRAL <input type="checkbox"/> YES - NOTIFY VWAP <input type="checkbox"/> NO |
|---------------------------------|--|--|---|

| SUSP NO. | SUSPECT | CODE | SECTION | OFFENSE DATE | REASON CODE |
|----------|---|---------------------------------|--|--------------|-------------|
| 1 | NAME (LAST, FIRST MIDDLE)) IBARRA, ARMANDO | PC | 149 | 12/01/2010 | B |
| | DOB _____ | SEX (M/F) M | | | |
| | BOOKING NO. _____ | VIP -- Yes X No _____ | | | |
| | Gang Member Name of Gang _____ | | Victim Gang Member Name of Gang: _____ | | |
| | Victim Name: _____ | Victim DOB: _____ | | | |
| 2 | NAME (LAST, FIRST MIDDLE)) CARBAJAL, DANIEL | PC | 149 | 12/01/2010 | B |
| | DOB _____ | SEX (M/F) M | | | |
| | BOOKING NO. _____ | VIP -- Yes X No _____ | | | |
| | Gang Member Name of Gang _____ | | Victim Gang Member Name of Gang: _____ | | |
| | Victim Name: _____ | Victim DOB: _____ | | | |
| 3 | NAME (LAST, FIRST MIDDLE)) AGUIAR, JOEY | PC | 149 | 12/01/2010 | B |
| | DOB _____ | SEX (M/F) M | | | |
| | BOOKING NO. _____ | VIP -- Yes X No _____ | | | |
| | Gang Member Name of Gang _____ | | Victim Gang Member Name of Gang: _____ | | |
| | Victim Name: _____ | Victim DOB: _____ | | | |

Comments
 SEE ATTACHED.

| | | | |
|---|---|--------------------------------|---|
| COMPLAINT DEPUTY (print) FERNANDO GUZMAN/ap | COMPLAINT DEPUTY (SIGNATURE) | STATE BAR NO. 134362 | REVIEWING DEPUTY (SIGNATURE) |
|---|---|--------------------------------|---|

I have conveyed all relevant information to the above-named Deputy District Attorney to be used in consideration of a filing decision.

FILING OFFICER (PRINT): SGT. GABRIELLE GRAVES FILING OFFICER (SIGNATURE): Mailed 6/13/13 SERIAL #: 246294

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| DEPARTMENT OF JUSTICE REASON CODES (FORM 8715) A. Lack of Corpus B. Lack of Sufficient Evidence C. Inadmissible Search/Seizure | D. Victim Unavailable/Declines To Testify E. Witness Unavailable/Declines to Testify F. Combined with Other Counts/Cases G. Interest of Justice | H. Other (Indicate the reason in Comments section) I. Referred to Non-California Jurisdiction J. Deferred for Revocation of Parole K. Further Investigation | L. Prosecutor Prefiling Deferral DISTRICT ATTORNEY'S REASON CODES M. Probation Violation filed in lieu of N. Referred to City Attorney for Misdemeanor Consideration |
|--|--|--|--|

LAST NAME: IBARRA

FIRST NAME: ARMANDO

DA CASE NUMBER: 33645833

DECLINATION MEMORANDUM

TO: JSID #12-0222R

THROUGH: JAMES GARRISON, Head Deputy
Justice System Integrity Division

FROM: FERNANDO GUZMAN, Deputy District Attorney
Justice System Integrity Division

SUBJECT: LASD Deputy Armando Ibarra, #533022
LASD Deputy Daniel Carbajal, #505863
LASD Deputy Joey Aguiar, #531564
LASD File #912-00036-2003-441

DATE: June 4, 2013

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of allegations that Los Angeles County Sheriff's Deputies Armando Ibarra, Daniel Carbajal and Joey Aguiar assaulted Eduardo Villareal under color of authority within the meaning of Penal Code section 149. For the reasons set forth below, this office declines to initiate criminal proceedings.

The following analysis is based on reports prepared by the Los Angeles County Sheriff's Department (LASD), submitted to this office by Sergeant Gabrielle Graves, LASD Internal Criminal Investigations Bureau (ICIB). Compelled statements, if they exist, were not reviewed.

FACTUAL ANALYSIS

On September 13, 2011, Sergeant Scott Craig, LASD, ICIB, interviewed Deputy Gilbert Michel regarding possible criminal activity by LASD personnel working at Men's Central Jail (MCJ). Deputy Michel was arrested for accepting a bribe and smuggling a cellular telephone into MCJ. He agreed to discuss criminal activity by other LASD personnel. Michel described four incidents of improper uses of force by LASD personnel, which he witnessed.

One of the incidents he described witnessing was an assault under color of authority committed against Inmate Eduardo Villareal. Michel stated that he and four other deputies were involved in this incident which occurred around Christmas, 2010. He identified three of the deputies as Daniel Carbajal, Joseph Gonzalez and Albert Murad. He could not recall who the other deputy was.

Villareal had just arrived in MCJ from the Inmate Reception Center (IRC). The deputies learned that Villareal was arrested for murdering his girlfriend and young child.¹ He was handcuffed behind his back, facing the wall in front of Module 3700. The deputies began searching him and an unidentified deputy kicked his legs apart. Villareal lost his balance and moved. Murad began punching him in his ribs. Gonzalez began kicking Villareal on his inner thighs. Carbajal and Michel did not participate in the assault but escorted Villareal back to his cell.²

Statements of Eduardo Villareal

On December 3, 2010, a family member of Villareal filed a complaint of a use of force with MCJ Watch Commander Lieutenant George Berumen. Sergeant Michael Ponce De Leon interviewed Villareal.

Villareal stated that he was transferred from Twin Towers Correctional Facility (TTCF) on December 1, 2010. After he was escorted to the upper tier, prior to entering his cell, he was told to face the wall for searching. A male white deputy grabbed his fingers and began to search him.³ Another deputy with the name tag "Ibarra" approached and asked Villareal why he was in jail. When he refused to answer, Ibarra struck him on the right side rib cage. There were no other inmates present, but there was a third unidentified deputy present. Ibarra was the only deputy who struck Villareal.

On April 11, 2011, Villareal signed a declaration which was later filed by the American Civil Liberties Union (ACLU). In the declaration, Villareal reiterated that Ibarra struck him when he refused to state why he was in jail. Villareal added, however, that the tall white deputy then "socked" him in the head twice. Ibarra punched Villareal in the ribs a second time. The deputies threatened to deny Villareal showers, blankets, food and canteen. They told him they would turn him over to the "Southsiders."⁴ Ibarra threatened to beat Villareal up if he filed a complaint.

On September 14, 2011, after the ACLU declaration was filed, ICIB investigators interviewed Villareal. He stated that when he arrived at Module 3500 his handcuffs were removed. His legs were kicked apart and he was searched. Ibarra asked him why he was in jail. When he refused to answer, another deputy lifted him into the air by the back of his shirt and swung him from side to side. Another deputy asked him again why he was in jail. When he refused to answer he was punched once in the right side rib area by Ibarra. Although the punch hurt, he was not injured.

Villareal was shown six-pack photo identification packets including photos of Deputies Aguiar, Gonzalez, Ibarra, Michel, Murad, Carbajal and Michael Ulloa. He identified Carbajal as the deputy who kicked his legs apart during the search. Villareal identified the photo of Armando Ibarra stating he "could be one of the twins, I don't know which

¹ Villareal is pending trial for murder in Los Angeles Superior Court case number BA377691.

² Michel did not say how many times Villareal was punched or kicked.

³ He did not know the deputy's name.

⁴ This implied that the deputies would allow gang members to assault Villareal.

one though.”⁵ This was the person who punched him in the ribs, although Villareal is unable to tell the twins apart. He was unable to identify any of the other deputies.

Statements of Involved Deputies

Deputies Armando Ibarra and Aguiar wrote reports in response to Villareal’s complaint to Sergeant Ponce De Leon. Ibarra acknowledged conducting a cursory search of Inmate Villareal upon his arrival to Module 3500. Aguiar simultaneously searched Villareal’s personal property. Aguiar escorted Villareal to his cell. Both deputies denied any use of force.

Injuries

Sergeant Ponce De Leon examined Villareal two days after the alleged incident and observed no injuries. He was escorted to the clinic and examined by Nurse Goyena. Villareal did not complain of pain and Nurse Goyena did not observe any injury.

Further Investigation

Investigators attempted to locate inmates and former inmates who were housed in the same module and row where the incident occurred. The five inmates they were able to locate denied witnessing the incident.

CONCLUSION

Villareal gave three statements regarding the assault. Each version of the incident contradicts the other two. Villareal is not corroborated by any reliable evidence. There is no video recording of the incident. There are no reliable witnesses who corroborate his allegation. Two witnesses who examined him shortly after the incident stated that there were no injuries which would demonstrate that an assault occurred.

When Michel was interviewed by ICIB investigators, he was facing felony criminal charges. The information which he provided regarding unlawful uses of force by deputies has not been corroborated by any other sources, including the inmate victims.

His description of the incident involving Inmate Villareal does not closely resemble any of the three statements given by Villareal. Michel, who works with and knows the deputies well, stated that Villareal was handcuffed when the incident happened. He had his legs kicked apart and was searched by an unknown deputy. Murad punched Villareal and then Gonzalez kicked him in the inner thighs.

Villareal stated that his handcuffs were removed prior to being searched. His legs were kicked apart for searching, but he never claimed that he was kicked after the search. Villareal was unable to recognize photos of Murad, Gonzalez or Michel. Rather than providing corroboration, Michel’s statement further contradicts Villareal.

⁵ Ibarra is one of two twin brothers who work at MCJ.

Based on the foregoing analysis, we find insufficient evidence to prove beyond a reasonable doubt that Deputies Armando Ibarra, Daniel Carbajal and Joey Aguiar committed an assault under color of authority. Therefore, we are closing our file and will take no further action in this matter.